



Employee Benefits Security Administration

Agency Information Collection Activities; Request for Public Comment

AGENCY: Employee Benefits Security Administration (EBSA), Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA 95), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. Currently, the EBSA is soliciting comments on Mental Health and Substance Use Disorder Parity Implementation and the *Consolidated Appropriations Act of 2021* Part 45. A copy of the information collection request (ICR) may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section on or before [Insert date 60 days from publication]

ADDRESSES: Please direct all written comments regarding the information collection request and burden estimates to James Butikofer, Office of Regulations and Interpretations, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5647, Washington, DC 20210. Telephone: (202) 693-8410; Fax: (202) 219-4745. These are not toll-free numbers. Comments may also be submitted electronically to the following Internet e-mail address: ebsa.opr@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The *Consolidated Appropriations Act* (the Act) was signed on December 27, 2020. The Departments of Labor, Health and Human Services, and the Treasury share interpretive jurisdiction of the Mental Health Parity and Addiction Equity Act (MHPAEA) and have split enforcement jurisdictions. The Department of Labor is responsible for enforcing MHPAEA with respect to private employer-sponsored group health plans. The Act amended MHPAEA, in part, by expressly requiring group health plans to perform and document a comparative analysis of the design and application of any non-quantitative treatment limitations (NQTLs) that apply to medical/surgical and mental health and substance use disorder benefits. As of 45 days after the date of enactment of the Act (February 10, 2021), group health plans must make their comparative analyses and related information available to the Department, upon request. The Act also provides that the Department shall request comparative analyses from plans that involve a potential violation of MHPAEA, or upon receipt of complaints regarding noncompliance with MHPAEA, and any other instances in which the Department determines appropriate. The Department must also issue an annual report to Congress regarding findings of compliance and noncompliance.

The Department, jointly with the Departments of Health and Human Services and the Treasury, issued FAQs about MHPAEA part 45 to provide guidance on how group health plans should prepare comparative analyses of NQTLs in order to avoid a determination of noncompliance. In particular, these FAQs clarify what the analyses must include to be sufficiently specific and detailed. These FAQs also clarify how the Department will evaluate comparative analyses in the course of an investigation, and what steps the Department will take if the plan is found to be noncompliant.

On April 2, 2021, the Office of Management and Budget (OMB) approved the information collection request (OMB Control Number 1210-0138 under the emergency procedures for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13,

44 U.S.C. Chapter 35) and 5 CFR 1320.13. The approval is scheduled to expire on September 31, 2021.

II. Current Actions

This notice requests public comment pertaining to the Department's request for extension of OMB's approval of the Application. After considering comments received in response to this notice, the Department intends to submit an ICR to OMB for continuing approval. No change to the existing ICR is proposed or made at this time. The Department notes that an agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICR and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Mental Health and Substance Use Disorder Parity Implementation and the *Consolidated Appropriations Act of 2021* Part 45.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0138.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 1,413,420.

Frequency of Responses: On occasion.

Responses: 1,413,420.

Estimated Total Burden Hours: 3,046,961.

Estimated Total Burden Cost (Operating and Maintenance): \$3,994,517.

III. Desired Focus of Comments

The Department of Labor is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Dated: April 16, 2021.

Ali Khawar,
Acting Assistant Secretary,
Employee Benefits Security Administration,
Department of Labor.

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